

of, or the entire, floodplain—as relevant to the proposed or anticipated actions. The areawide compliance process shall be in accord with the decision making process under § 55.20.

(b) The areawide compliance process shall address the relevant executive orders and shall consider local land use planning and development controls (e.g., those enforced by the community for purposes of floodplain management under the National Flood Insurance Program (NFIP)) and applicable state programs for floodplain management. The process shall include the development and publication of a strategy that identifies the range of development and mitigation measures under which the proposed HUD assistance may be approved and that indicates the types of actions that will not be approved in the floodplain.

(c) Individual actions that fit within the types of proposed HUD actions specifically addressed under the areawide compliance do not require further compliance with § 55.20 except that a determination by the Department or a grant recipient subject to 24 CFR part 58 shall be made concerning whether the individual action accords with the areawide strategy. Where the individual action does not accord with the areawide strategy, specific development and mitigation measures shall be prescribed as a condition of HUD's approval of the individual action.

(d) Areawide compliance under the procedures of this section is subject to the following provisions: (1) It shall be initiated by HUD through a formal agreement of understanding with affected local governments concerning mutual responsibilities governing the preparation, issuance, implementation, and enforcement of the areawide strategy;

(2) It may be performed jointly with one or more Federal departments or agencies, or grant recipients subject to 24 CFR part 58 that serve as the responsible Federal official;

(3) It shall establish mechanisms to ensure that: (i) The terms of approval of individual actions (e.g., concerning structures and facilities) will be consistent with the areawide strategy;

(ii) The controls set forth in the areawide strategy are implemented and enforced in a timely manner; and

(iii) Where necessary, mitigation for individual actions will be established as a condition of approval.

(4) An open scoping process (in accordance with 40 CFR 1501.7) shall be used for determining the scope of issues to be addressed and for identifying significant issues related to housing and community development for the floodplain;

(5) Federal, state and local agencies with expertise in floodplain management, flood evacuation preparedness, land use planning and building regulation, or soil and natural resource conservation shall be invited to participate in the scoping process and to provide advice and comments; and

(6) Eligibility for participation in and the use of the areawide compliance must be limited to communities that are in the Regular Program of the National Flood Insurance Program and in good standing (*i.e.*, not suspended from program eligibility or placed on probation under 44 CFR 59.24), thereby demonstrating a capacity for and commitment to floodplain management standards sufficient to perform responsibilities under this part.

(7) An expiration date (not to exceed ten years from the date of the formal adoption by the local governments) for HUD approval of areawide compliance under this part must be stated in the agreement between the local governments and HUD. In conjunction with the setting of an expiration date, a mechanism for HUD's reevaluation of the appropriateness of areawide compliance must be provided in the agreement.

§ 55.26 Adoption of another agency's review under the executive orders.

If a proposed action covered under this part is already covered in a prior review performed under the executive order by another agency, that review may be adopted by HUD or by a grant recipient authorized under 24 CFR part 58, provided that:

(a) There is no pending litigation relating to the other agency's review for floodplain management;

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(b) The adopting agency makes a finding that:

(1) The type of action currently proposed is comparable to the type of action previously reviewed by the other agency; and

(2) There has been no material change in circumstances since the previous review was conducted; and

(c) As a condition of approval, mitigation measures similar to those prescribed in the previous review shall be required of the current proposed action.

§ 55.27 Documentation.

(a) For purposes of compliance with § 55.20, the responsible HUD official who would approve the proposed action (or the Certifying Officer for a grant recipient subject to 24 CFR part 58) shall require that the following actions be documented: (1) Under § 55.20(c), practicable alternative sites have been considered outside the floodplain, but within the local housing market area, the local public utility service area, or the jurisdictional boundaries of a recipient unit of general local government (as defined in 24 CFR 570.3), whichever geographic area is more appropriate to the proposed HUD action. Actual sites under review must be identified and the reasons for the non-selection of those sites as practicable alternatives must be described; and

(2) Under § 55.20(e), measures to minimize the potential adverse impacts of the proposed action on the affected floodplain as identified in § 55.20(d) have been applied to the design for the proposed action.

(b) For purposes of compliance with § 55.24, § 55.25, or § 55.26 (as appropriate), the responsible HUD official (or the Certifying Officer for a grant recipient subject to 24 CFR part 58) who would approve the proposed action shall require documentation of compliance with the required conditions.

(c) Documentation of compliance with this part (including copies of public notices) must be attached to the environmental assessment, the environmental impact statement or the compliance record and be maintained as a part of the project file. In addition, for environmental impact statements, documentation of compliance with this

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part must be included as a part of the record of decision (or environmental review record for grant recipients subject to 24 CFR part 58).

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES

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Sec.

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